◦ THE HON'BLE SRI JUSTICE BILAL NAZKI

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+ W.P.No. 13341 OF 1995

% Dated 12.8.2004

Varampeti Venkataswamy Reddy

…. Petitioner

Vs.

$ The District Collector, Chittoor and others

….Respondents

! Counsel for petitioners: Mr. M.N. Narsimha Reddy.

^Counsel for Respondents: GP for Revenue

<GIST:

> HEAD NOTE:

? Cases referred

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 13341 of 1995

Between:

Varampeti Venkataswamy Reddy s/o Gurivi Reddy
r/o Reddyvaripalle , H/o Vepulabylu ,
piler mandal , Chittoor district.

..... PETITIONER

AND

1 The District Collector
Chittoor
2 The Joint Collector
Chittoor
3 Mandal Revenue officer Piler
Chittoor District.
4 Station house Officer Piler PS
Chittoor District.
5 Koppala lakshmaiah s/o Thimmaiah
r/o kummavapalli h/o Medupulavemula village ,
Piler Mandal , Chittoor district.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ or order in the nature of writ of mandamus directing the respondents not to interfere with possession and enjoyment by allowing the 5th respondent to take carts , bulls etc. , through the agricultural lands of petitioner in sy. 500, 483, 476, and 475 situated in Mudupulavemula village under the Police protection declaring the order of requisition by MRO , Piler in ROC H/1287/93 dt 8-11-94 communicated to the station house officer , Piler to provide necessary protection to 5th respondent U/s 147 Cr.P.C as null and void.

Counsel for the Petitioner: MR.M.N.NARASIMHA REDDY, Advocate

Counsel for the Respondent Nos. 1 to 4: GP FOR REVENUE

Counsel for the respondent No.5: Mr. K. G. Krishna Murthy

The Court made the following :

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HON'BLE SRI JUSTICE BILAL NAZKI

W.P.NO. 13341 OF 1995

ORDER:

Heard learned counsel for the parties. It appears that there is a dispute between the petitioner and 5th respondent with regard to right of way. The matter is pending in a Civil Court. An application was made before the Collector who stated in his order that it could not be possible for him to decide the matter and asked the Mandal Revenue Officer to enquire into the matter and invoke Section 147 of Cr.P.C. Then the Mandal Revenue Officer, on the basis of order of the Collector, passed the impugned order. The impugned order reads as under,

> "In the reference cited the pattedar Sri K. Lakshmaiah of Kummarapale h/o Mudupulavemula village owns lands in S.Nos. 477- etc. in Mudupulavemula village and represented that there is plan marked cart track to his patta lands but Sri V.Venkataswamy Reddy and others of Reddiveripalle h/o Vepula by the village are obstructing the plan marked cart track and causing inconvenience to the petitioner.
>
> I request you to provide necessary protection u/s. 147 Cr.P.C. whenever he approaches."

This order is manifestly an illegal order, because the purport of Section 147 of Cr.P.C. is that if an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of peace exists regarding any alleged right of user of any land or water within his local jurisdiction, he may make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by pleader on a specified date. Exercise of jurisdiction by the Executive Magistrate under Section 147 of Cr.P.C. depends upon his satisfaction from the police report or any

other information that a dispute likely to cause breach of the peace exists regarding any alleged right of user of any land or water within his jurisdiction. Unless such satisfaction is recorded by the Executive Magistrate, no order can be passed under Section 147 of Cr.P.C. For exercise of jurisdiction under Section 147 of Cr.P.C. the sine qua non is recording of satisfaction with regard to a dispute likely to cause breach of the peace regarding any alleged right of user of any land or water. After the order is passed under Section 147 (1) of Cr.P.C., the Executive Magistrate is bound to call the parties concerned in dispute and ask them to put in their written statements with regard to their claim. So in the first stage, the Executive Magistrate is supposed to record his satisfaction after giving the reasons. The second stage is to call the parties concerned in dispute to put in their written statements with respect to their respective claims and it is only after consideration of those statements and after conducting an enquiry as is provided under Section 145 of Cr.P.C., he may pass the prohibitory orders under sub-section (3) of Section 147 of Cr.P.C. Unless the first two steps are taken, the third step cannot be taken.

For the reasons given hereinabove, the impugned order is manifestly without jurisdiction and illegal which is hereby quashed. The writ petition is accordingly allowed. No costs.

KR 12.8.2004

Rule nisi issued has been made absolute as above.

Witness the Hon'ble the Chief Justice Sri Devinder Gupta, on this the Thursday, the Twelfth day of August, 2004.

Sd/-

Asst. Registrar

//True Copy//

Section Officer

One Fair copy to the Hon'ble Mr. Justice Bilal Nazki (for his Lordship's kind perusal)

To

1. **The District Collector**
   Chittoor

2. **The Joint Collector**
   Chittoor

3. **The Mandal Revenue officer Piler**
   Chittoor District.

4. **The Station house Officer Piler PS**
   Chittoor District.

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